

Supporting Statement for Paperwork Reduction Act Submissions

Affirmative Fair Housing Marketing (AFHM) Plan – Multifamily Housing HUD-935.2A

Affirmative Fair Housing Marketing (AFHM) Plan – Single Family Housing HUD-935.2B

Affirmative Fair Housing Marketing (AFHM) Plan – Condominiums or Cooperatives HUD-935.2C

The Department of Housing and Urban Development (HUD) is requesting that the Office of Management and Budget (OMB) approve the extension of forms: HUD-935.2A Affirmative Fair Housing Marketing Plan – Multifamily Housing, HUD-935.2B Affirmative Fair Housing Marketing Plan – Single Family Housing, and HUD-935.2C Affirmative Fair Housing Marketing Plan – Condominiums or Cooperatives.

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Fair Housing Act (the Act) requires the Department of Housing and Urban Development (HUD) to administer its programs in a manner to affirmatively further the Act's objectives. Executive Order 11063 requires Federal agencies to take all necessary and appropriate steps to eliminate discriminatory practices involving federally insured and subsidized housing. If this information was not collected it would inhibit the civil rights objective of ensuring that builders/developers who are benefiting from HUD programs take steps to provide information on housing availability to all parts of the housing marketing area regardless of race, color, religion, sex, national origin, disability, or familial status. Under the AFHM Regulations (24 CFR Part 200, Subpart M) issued pursuant to these provisions, all applicants for HUD-insured and subsidized multifamily projects must submit an AFHM Plan on a prescribed form. In addition, builders and developers of single family housing or condominium or cooperative units that intend to sell five or more properties in the next year, or sold five or more properties in the past year, and where a lender is submitting initial applications for HUD mortgage insurance, must submit one of several agreements or statements, among which is an AFHM Plan on a prescribed form.

a. Statutory and Executive Authority

- (i) The Fair Housing Act (42 U.S.C. 3601), Section 808 (e)(5), requires the Secretary of HUD to administer HUD's programs in a manner to affirmatively further fair housing. Section 808 (e)(6) of the Act requires HUD to report to Congress annually and make available to the public data on the race, color, religion, sex, national origin, age, disability and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of programs administered by HUD. This provision also requires the Secretary to collect such information relating to these characteristics as the Secretary determines to be necessary and appropriate.
- (ii) Section 562 of the Housing and Community Development Act of 1987 requires the collection of data on racial and ethnic characteristics of persons eligible for, assisted or otherwise benefiting from any community development, housing assistance, mortgage and loan insurance, and guarantee program administered by the Secretary to assess the extent of compliance with HUD's fair housing requirements. This Section also requires the Secretary to send to Congress a summary and evaluation of the data collected.

- (iii) Executive Order 11063, as amended by Executive Order 12892, requires all federal agencies to take appropriate action to eliminate discriminatory practices in housing programs administered by such agencies.

b. Regulatory Authority

- (i) Affirmative Fair Housing Marketing Regulation (24 CFR Part 200, Subpart M).
- (ii) Compliance Procedures for Affirmative Fair Housing Marketing (24 CFR Part 108).
- (iii) Fair Housing Poster Regulations (24 CFR Part 110).
- (iv) Single Family Regulation (24 CFR 203.12(b)(3)).

2. Uses of Information

a. Purpose of Affirmative Fair Housing Marketing

The Regulation at 24 CFR 200, Subpart M, states the purpose of Affirmative Fair Housing Marketing as follows:

“... as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, sex, disability, familial status or national origin.” (24 CFR 200.610)

To achieve this purpose, HUD requires applicants for insured and subsidized housing to submit an AFHM Plan in which:

- (i) The applicant describes the affirmative steps it plans to take to attract prospective buyers or tenants of all minority and non-minority groups in the housing market area regardless of their race, color, religion, sex, national origin, disability, or familial status.
- (ii) HUD assesses the potential effectiveness of the methods to be employed by the applicants in marketing their housing in accordance with the statutes and regulations listed above. Prior to HUD approval of the final application, the actions indicated must be deemed by HUD to be appropriate marketing techniques for the size, type, and location of units to be sold or rented and to attract groups least likely to apply for housing in the housing market area.

b. Affirmative Marketing and Single Family Housing

3. Improved Information Technology

Although this information collection has not been automated in the past, HUD is considering automating the forms for the efficiency of the agency and for the benefit of applicants.

4. Duplication

There is no similar information submitted by applicants to HUD in other form or application packages that can be used in place of the AFHM Plan. This form is the only instrument that collects information on the methods used by the sponsors and developers of insured and subsidized multifamily, single family, and

cooperative and condominium housing to make their housing available to all segments of the housing market area on a nondiscriminatory basis.

5. Small Businesses or Other Small Entities

To minimize the burden on single family homebuilders/developers, HUD has provided these small entities an exemption from completing the AFHM Plan- Single Family Housing (HUD-935.2B), Single Family homebuilders/developers can check block 11 on the Builder's Certification of Plans, Specifications, and Site form (HUD-92541) to self-certify compliance with HUD's Affirmative Fair Housing Marketing Regulation. Single Family homebuilders/developers must also maintain records of their affirmative fair housing marketing activities and make them available to HUD upon request. If a builder opts to check block 11, they no longer need to submit an individual AFHM Plan – Single Family Housing or Condominium or Cooperative (HUD 935.2B or 935.2C) to HUD for approval.

6. Frequency

Single family housing developers complete the AFHM Plan form only during the application process and the AFHM Plan is in effect through full initial occupancy. Condominium/cooperative developers complete their AFHM Plan only during the application process and the AFHM Plan is in effect through full initial occupancy. The AFHM Plan for multifamily housing projects must be reviewed at least once every five years, and updated as needed to ensure continued compliance with HUD's AFHM Regulation.

7. Consistency with 5 CFR 1320.6

The AFHM Plan for multifamily housing projects remain in effect for the life of HUD's mortgage assistance (24 CFR 200.620 (a)). These multifamily housing project plans must be reviewed at least every five years and updated as needed to ensure continued compliance with HUD's AFHM Regulation (24 CFR 200.600 Subpart M).

8. Public Comments on Information Collection

Comments on this proposed information collection were solicited through *Federal Register* Notice dated April 02, 2013, Volume 78, Number 63, page 19727.

There were six comments received for this collection of information. The issues identified were addressed through direct response and in Affirmative Fair Housing Marketing procedure guidance that is currently being drafted.

9. Payments or Gifts to Respondents

There are no payments or gifts provided to respondents in this collection of information.

10. Confidentiality

There are no assurances of confidentiality provided in this collection of information. However, the form contains no questions of a confidential nature.

11. Sensitive Information

There are no questions of a sensitive nature asked in this collection of information.

12. Estimate of Collection Burden

Number of Respondents	Frequency of Responses	Est. Average Response Time	Est. Annual Burden (Hours)
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AFHM Plan – Multifamily Housing – HUD-935.2A

300	1	6 hours	1800 hours
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(New MFH Projects)

7,750	1	2 hours	15,500 hours
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(Review 25% of MFH inventory of 31,000. This is comprised of 20% of the inventory (6200) for mandatory 5 year reviews and an additional 1,550 due to projected demographic changes).

4,030	1	2 hours	8,060 hours
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(Updates 52% of those MFH plans that were reviewed and will need updating). This is comprised of 40% of the AFHM Plans that had 5 year reviews (2480) plus 100% of those reviewed prior to 5 years (1,550)

AFHM Plan Single Family Housing HUD-935.2B and Condominiums/ Cooperative HUD-935.2C

30	1	6 hours	180 hours
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(New Single Family Housing and Condominium/Cooperative Development)

TOTAL COLLECTION BURDEN			25,540 hours
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There are approximately 8080 potential respondents for this collection of information per year (300 new multifamily housing + 7750 multifamily housing reviews + 30 single family housing and condominiums/cooperatives = 8080. There are approximately 4,360 annual responses to this information collection: 300 new multifamily housing + 4,030 multifamily housing updates + 30 new single family housing/condominiums/cooperatives.

AFHM Plan – Multifamily Housing – HUD-935.2A

There are approximately 31,000 multifamily housing insured and subsidized projects in HUD’ inventory.

The AFHM Plan – Multifamily Housing (HUD-935.2A) must be reviewed at least every five years and updated if needed. It is estimated that 20 % of the multifamily housing projects’ inventory (6,200) will conduct five year reviews of their AFHM Plans each year while 1,550 additional plans are expected to be reviewed annually, prior to five years. There are approximately 300 new multifamily housing projects each year.

It is also estimated that 4,030, 40% of the five year reviewed AFHM Plans (approximately 2,480) will have to be updated while an additional 5% (1,550) will review and update their Plans due to demographic changes in the community or for other reasons.

AFHM Plan – Single Family Housing and Condominium or Cooperative HUD-935.2B and 935.2C

It is estimated that approximately 30 new single family housing and condominium/cooperative projects will submit form HUD-935.2B and HUD-935.2C to HUD. **This small number reflects the estimate that many builders rely on as exemption and use the options on form HUD-92541 0 Builder's Certification of Plans, Specifications, & Site – Block 11, to self-certify compliance with HUD's Affirmative Fair Housing Marketing Regulation.**

13. Estimates of Annualized Costs to the Respondent

One professional staff person:

New (MFH): at \$35.00 per hour for approximately 4 hours:	\$140.00	X	300	=	\$42,000
New (SFH or condo/co-op): at \$35.00 per hour for approximately 4 hours:	\$140.00	X	30	=	\$ 4,200
Reviews (MFH): at \$35.00 per hour for approximately 2 hours:	\$ 70.00	X	7,750	=	\$542,500
Updates (MFH): at \$35.00 per hour for approximately 2 hours:	\$70.00	X	4,030	=	<u>\$282,100</u>
			Subtotal:		\$870,800

One secretary to perform clerical duties:

New (MFH): at \$16.00 per hour for approximately 2 hours:	\$32.00	X	300	=	\$9,600
New (SFH or condo/co-op): at \$16.00 per hour for approximately 2 hours:	\$32.00	X	30	=	\$ 960
Updates (MFH): at \$16.00 per hour for approximately 2 hours:	\$32.00	X	4,030	=	<u>\$128,960</u>
			Subtotal:		\$139,520
Mailing costs for one first class package MFH and SFH/Condo/Co-op @ \$1.25 per report:	\$1.25	X	4,360	=	\$ 5,450

TOTAL COST TO RESPONDENT: \$1,015,770

14. Estimates of Annualized Cost to Government

One GS-12/5 to review and recommend approval/initial rejection of AFHM Plans:

New (MFH): at \$35.32 per hour for approximately 3 hours:	\$105.96	X	300	=	\$31,788
New (SFH/Condo/Co-op): at \$35.32					

per hour for approximately 3 hours:	\$105.96	X	30	=	\$3,178.80
Updates (MFH): at \$35.32					
per hour for approximately 3 hours:	\$105.96	X	4,030	=	<u>\$427,018.80</u>
			Subtotal:		\$461,985.60

One GS-5/5 to perform clerical duties:

New (MFH): at \$16.08					
per hour for approximately ½ hour:	\$8.04	X	300	=	\$2,412.00
New (SFH/Condo/Co-op): at \$16.08					
per hour for approximately ½ hour:	\$8.04	X	30	=	\$ 241.20
Updates (MFH): at \$16.08					
per hour for approximately ½ hour:	\$8.04	X	4,030	=	<u>\$32,401.20</u>
					\$35,054.40

TOTAL: \$497,040

15. Program Changes

None.

16. Publication of Data

The results of this collection of information will not be published.

17. Display of Expiration Date

The OMB approval number and expiration date will be displayed on the form.

18. Exception to Certification

There are no exceptions to the certification statement identified in Item 19 of form OMB 83-I.

B. Collections of Information Employing Statistical Methods

The collection of information will not be used for statistical purposes.

